IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

THURSDAY, THE 18TH OCTOBER 2007 / 26TH ASWINA 1929

WP(C).No. 18675 of 2006(W)

PETITIONER:

SULAIMAN, AGED 46,S/O.SRI.PAREED,
RESIDING AT VELLYATH HOUSE, NETTOOR,
MARADU VILLAGE, KANAYANNUR TALUK.

BY ADV. SRI.T.K.RADHAKRISHNAN
SRI.SREEJITH V.S.

RESPONDENTS:

STATE OF KERALA REPRESENTED BY
DISTRICT COLLECTOR, KAKKANAD,
ERNAKULAM.

BY SR. GOVERNMENT PLEADER SRI. V.T.K.MOHANAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 18/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) NO: 18675/2006 W

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1. COPY OF THE BALANCE STATEMENT DT. 18/11/2004.

EXT.PII. COPY OF THE STAY ORDER GRANTED IN CMP NO. 1869/2000 DT. 11/6/02.

EXT.PIII. COPY OF THE ORDER DT. 9/12/2004 OF SUB COURT, ERNAKULAM.

EXT.PIV. COPY OF THE ORDER DT. 8/2/2005 OF SUB COURT, ERNAKULAM.

RESPONDENT'S EXHIBITS **NIL.**

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M.N.KRISHNAN, J

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W.P.(C) No.18675 OF 2006

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Dated this the 18th day of October 2007

JUDGMENT

This writ petition is filed for a direction to set aside Ext.P4 order. The petitioner moved a cheque application for issuance of a cheque for a sum of Rs.5,47,843/-. The court held that as per the ruling reported in ***State of Kerala v. Mariyamma (2005(1) KLT 173),*** petitioner is only entitled to Rs.4,37,099/-. Since the cheque application is for a larger amount, the petition was dismissed. So the net result is for even the admitted amount, no cheque is issued in favour of the parties. Certainly it will cause hardship. Therefore the dispute can be resolved as follows: The petitioner can file an application for issuance of a cheque for Rs.4, 37, 099/- making it clear in the affidavit that he is entitled to more amount and that he is filing a separate application for fixing the amount. The petitioner is also directed to file an application for fixing the amount due to him and the court on hearing the Government as well fix the amount and pass an order accordingly. If the petitioner is entitled to the amount as claimed by him, the court can issue a

cheque for that amount thereafter.

The writ petition is disposed of as above.

M.N.KRISHNAN, JUDGE

Cdp/-